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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

No. [redacted] 76

AUGUST SWARZ,

Petitioner,

vs.

S. W. GOOLSBY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA AND SUPPORTING BRIEF FOR PETITION FOR WRIT OF CERTIORARI.

AUGUST SWARZ,
Petitioner (pro-se),
511 N.E. 38th Street,
Miami, Florida.

UNITED STATES LAW PRINTING CO., CHICAGO 14, ILL. LAKEVIEW 5-6581

Oral Argument Requested.

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NO.

AUGUST SWARZ,

Petitioner,

vs.

S. W. GOOLSBY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA.

To The Honorable Justices Of The Supreme Court Of The United States:

1) The Petitioner, August Swarz, pro-se, brings this his Petition that this Honorable Court issue its Writ of Certiorari to the Supreme Court of the State of Florida for review of the decision of the Supreme Court of Florida in the case of *August Swarz* v. *S. W. Goolsby,* entered upon the 20th day of December, 1949. Said decision affirmed

without opinion a Final Decree of the Circuit Court of Florida in and for Broward County, Chancery Case No. 12687 in which a decision was rendered adverse to the appellant and depriving him of his title to certain lands located in Broward County. The Appeal to the Supreme Court of Florida was based upon the contention of the Petitioner that the Decree of the Circuit Court was entered without regard for due process of law as guaranteed by the Constitution of the United States; in that the decree of the Circuit Court was entered without the Appellant having been given notice of a Motion for Final Decree, or notice of Final Hearing in said Cause, and without the Petitioner having been given an opportunity to present any defense against the entry of such decree. Said decree was also entered in Palm Beach County and not in Broward County the situs of the land in question. The Petitioner was duly diligent in preserving the Federal question so presented, and raised said points in Assignments of Error IV, X and XIII, XI and III; as follows: (Trans. 55-57).

Assignment of Error IV.

The Chancellor erred in entering the decree of April 27, 1949 because said decree violates and contravenes the Fifth Amendment of the Constitution of the United States, because it deprives the Appellant, Swarz, of his property without due process of law. (Trans. 56)

Assignment of Error X.

The Chancellor erred in entering said decree because it deprived and confiscated the property of the defendant appellant August Swarz, without allowing him his day in court and without due process of law. (Trans. 57)

Assignment of Error XIII.

The Chancellor erred in entering a decree without any application or motion, or notice of said motion, to the Defendant, Swarz, by the Plaintiff. (Trans. 57)

Assignment of Error XI.

The Chancellor erred in entering the decree and approving the Master's Report because said Master did not qualify himself to act as Master by taking the proper oath, and said Master deprived the Defendant, Swarz, due process of law by denying him the right to continue the hearing so that he might introduce his evidence of title. (Trans. 57)

Assignment of Error III.

The decree is erroneous and void because the order entered August 13, 1948 is erroneous because the amended Counter Claim of the Petitioner Swarz, contains equity and offers to do equity, and sets forth a good cause of action cognizable in a Court of Equity. (Trans. 55)

2) This Court has jurisdiction of this Cause by virtue of Section 237(b) of the Judicial Code as amended by the Acts of Feb. 13, 1925. The matter in question involves a review of a Final Decree rendered by the highest court of a state in which a decision could be had where a right, title, privilege and immunity is specially set up and claimed by a party under the Constitution of the United States.

3) The questions presented are as follows:

(a) Does the entry of a Final Decree by a State Court, without notice of the motion for such Decree, and without notice of Final Hearing, and without opportunity being given to an interested party to appear and protect such

substantive rights, as he claims, and where such final hearing is held within a different jurisdiction than that within which the question of the ownership of land is being contested, constitute a deprivation of the right of 'due process' of such interested party as to violate the 'due process' provisions of the 14th Amendment to the Constitution of the United States?

(b) Does the entry of a Final Decree by a State Court, which dismisses the amended Counterclaim of the Petitioner (Trans. 15-22), which said Counterclaim contains equity and offers to do equity, and sets forth a good cause of action cognizable in a Court of Equity, constitute a deprivation of the right of 'due process' of such interested party as to violate the 'due process' provisions of the 14th Amendment to the Constitution of the United States?

(c) Does the entry of a Final Decree by a State Court, which approves the Master's Report where said Master did not qualify himself to act as Master by taking the proper oath, and said Master deprived the Petitioner, Swarz, due process of law by denying him the right to continue the hearing so that he might introduce his evidence of title, constitute a deprivation of the right of 'due process' of such interested party as to violate the 'due process' provisions of the 14th Amendment to the Constitution of the United States?

4) The reasons relied upon for the allowance of the Writ are as follows:

(a) This Court has repeatedly ruled that citizens whose property it is sought to take, must be notified and informed, at a suitable and convenient time beforehand, that at a certain tribunal, at a certain place, and at a certain time, application will be made for the entry of an order, judg-

ment or decree, which will take away or effect substantially, his fundamental rights to life, liberty or property.

(b) This Court has also ruled consistently that due process of law requires that the party against whom such proceedings have been instituted, must, before final judgment is rendered, be given an opportunity to be heard, which includes the right to prove, if he is able to do, *any and all facts,* which under the established law of the forum, constitutes a defense to his adversary's claim and asserted right, and to prove and establish under the settled rules of procedure, governing the admissibility of evidence, any fact or facts sufficient by the law of the forum, to show that his adversary's claim is untrue, unjust or unfounded.

(c) This Court has never looked with favor upon the practice of any Court in attempting to exercise jurisdiction over real property not located within its own jurisdiction, without the parties in question even being given the opportunty to have their day in Court.

Wherefore, the Petitioner prays that this Honorable Court will reverse the order of the Supreme Court and Trial Court of Florida, enter its Writ of Certiorari directed to the Supreme Court of the State of Florida for the review of the matters presented as aforesaid.

Respectfully submitted,

August Swarz
Petitioner — pro se
511 NE 38th Street
Miami, Florida

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

NO.

AUGUST SWARZ,

Petitioner,

vs.

S. W. GOOLSBY,

Respondent.

SUPPORTING BRIEF FOR PETITION FOR WRIT OF CERTIORARI.

STATEMENT OF THE GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED.

The jurisdiction of this Court is invoked upon the grounds that a decision had been entered by the Supreme Court of the State of Florida in the case of August Swarz, Appellant, vs. S. W. Goolsby, Appellee, which said decision entered on the 20th day of December, 1949 affirmed

without opinion a Final Decree of the Circuit Court of Florida in and for Broward County. In the appeal to the Supreme Court of Florida the Petitioner raised the question that he had been deprived of his right to due process of law as guaranteed to him by the 14th Amendment of the Constitution of the United States. Jurisdiction of this Court to entertain the Petition for Writ of Certiorari is conferred by Section 237(b) of the Judicial Code as amended by the Act of February 13, 1925.

SUMMARY AND STATEMENT OF THE MATTER INVOLVED.

S. W. Goolsby, Respondent, brought a suit in Equity to Quiet Title to two tracts of land basing his title upon two purported tax deeds. (Trans. 1-10). Swarz appeared and filed his "Answer", "Counter Claim and Cross Bill." The respondent filed a motion to strike part of the "Answer" of Petitioner and dismiss the "Counter Claim and Cross Bill" of Petitioner. Upon a hearing the Chancellor struck part of Petitioner's Answer and dismissed the Counter Claim and Cross Bill with leave to amend. The Petitioner filed an "Amended Answer" and "Amended Cross Bill." The Respondent filed a Motion to Dismiss the "Amended Cross Bill" of Petitioner. Upon a hearing the Chancellor allowed the motion "To Dismiss the Amended Cross Bill" of Petitioner. From this order of Nov. 5, 1947 the Petitioner took an Interlocutory Appeal to the Supreme Court of Florida and the Court affirmed the order.

On July 15, 1948 leave was given Petitioner to file Amended Pleadings (Trans. 10). Petitioner filed Amended Answer and Counter Claim (Trans. 11-22). Respondent filed Motion to Dismiss Amended Counter Claim (Trans. 22). The Trial Court entered an Order Dismissing the Amended Counter Claim of Petitioner (Trans. 23). An Interlocutory Appeal was taken by Petitioner to the Supreme Court of Florida, and on Feb. 1, 1949 the Supreme Court of Florida affirmed the Order of the Trial Court (Trans. 23-25).

In Circuit Court of Broward County

Order Denying Motion to Dismiss Bill of Complaint etc.

—Filed August 13, 1948

This cause was duly presented by counsel and considered by the Court.

[fol. 29] Thereupon, it is ordered and adjudged that the defendant's motion to dismiss the bill of complaint, as the bill has this day been amended by interlineation, be denied, and that the plaintiff's motion to dismiss the amended counterclaim of August Swarz be granted, with leave to August Swarz to file a further amended counterclaim within ten (10) days from date.

Done and ordered this August 13, A. D. 1948.

(S.) C. E. Chillingworth, Circuit Judge.

On February 1, 1949, Order entered by the Supreme Court of Florida affirming the Order of August 13, 1948 was filed in words and figures as follows:

In Supreme Court of Florida

A Writ of Certiorari to the Circuit Court for Broward County, C. E. Chillingworth, Judge.

August Swarz, in proper person for Petitioner.

Richard M. Sauls, for Respondent.

Opinion—Filed January 14, 1949

Barns, J.

The respondent Goolsby, as plaintiff, brought his bill against Stanley Dosik and August Swarz (et al.) to quiet title to certain land. Plaintiff based his claim to title on a tax deed issued in 1944 and a deed from the Everglades Drainage District, issued in 1944.

The Petitioner Swarz filed his answer and a counterclaim and the chancellor sustained a motion to dismiss the counterclaim of which order Swarz petitions reviewal by certiorari.

The counterclaim of Swartz based his title on a deed from Dosik, in 1945, and upon the further ground that he holds tax certificate against said land purchased by him at a sale conducted by authority of the "Murphy Act" (Sec. 192.35, F. S. 1941, F.S.A.) Swarz further charges in his [fol. 30] counterclaim that the Clerk of the Circuit Court erred, by reason of certain facts, in issuing the tax deed to the plaintiff; also that in October, 1943, cross-claimant sought to pay the delinquent taxes on the land in question and that the Clerk of the Court advised that said taxes had been redeemed by the cross-defendant.

Cross-plaintiff's pleadings show that his claim to title is based on a deed from Dosik dated 1945 but it is noted that his application to the Clerk for redemption was at a time prior to the date of Dosik's deed and at a time when the cross-plaintiff held only tax certificates.

Cross-plaintiff offers to do equity and seeks a decree quieting his alleged title against the claim of plaintiff Goolsby.

The matters set forth in the cross-complaint of the petitioner relate and go to the equities of the subject matter presented by plaintiff's bill. A final decree upon the bill and an appropriate answer would determine the equities between the parties if all material matters set forth in the cross-complaint were properly plead in an answer.

Concerning the exercise of equity jurisdiction, this Court has held:

> "Court of equity should do justice completely and not by halves, and equity will not enter a partial or incomplete decree.
>
> "Defenses to bill in equity should be fully stated though required by statute to be set out in short and simple terms."
>
> Headnotes 8 and 9—Schupler vs. Eastern Mortgage Co., 33 So. 2d 586.

This Court has also held that:

> "When Cross-Bill (or Counterclaim) improper: 'Where the matters of the cross-bill are equally avail-[fol. 31] able as against the complainant by an answer to the original bill, a cross-bill is unnecessary. *Sanderson's Adm'rs* v. *Sanderson,* 17 Fla. 820, 834; 16 Cyc. 327.' *Herrin* v. *Abbe,* 55 Fla. 759, 772, 46 So. 183, 184, 18 L.R.A., N.S. 907.
>
> " 'This is subject matter of defense to the original suit, and not the proper subject for a cross-bill. *Tison* v. *Tison,* 14 Ga. 167; *Bullock* v. *Brown,* 20 Ga. 472; *Weed* v. *Smull,* 3 Sand. Chy. 273; *Alston* v. *Alston,* 34 Ala. 15.' *Sanderson's Adm'rs.* v. *Sanderson,* 17 Fla. 820, 834."
>
> *Schupler* v. *Eastern Mortgage Co.,* 33 So. 2d 586, 591.

The petition for certiorari is denied.

Adams, C. J., Terrell, Chapman, Sebring and Hobson, J. J. concur.

Thomas, J., agrees to conclusion.

A true copy,

Test:

(S.) Guyte P. McCord, Clerk Supreme Court of Florida. Supreme Court Seal.

The Cause was then referred to a Special Master in Chancery, hearings were held and the Master found in favor of the Respondent (Trans. 47-51). Petitioner filed exceptions and objections to the Master's Report (Trans. 51-53). The Trial Court heard Petitioner's objections to the Master's Report and overruled the exceptions and objections of Swarz. *Without notice to the Petitioner Swarz, and without notice of a motion of a hearing in said Cause for the entering of a Final Decree, and without notice to Petitioner of the time and place where said hearing would be conducted and heard, a Final Decree was filed of record* on *April* 28, 1949, *signed by the Hon. Jos. S. White, Circuit Judge, "Done and Ordered in Chambers at West Palm Beach,* Florida, this 27th day of April, A.D. 1949" (Trans. 53-55). Petitioner filed an ASSIGNMENT OF ERRORS (Trans. 55-58) and Notice of Appeal (Trans. 60).

ASSIGNED ERRORS TO BE URGED.

The petitioner, in his Assignment of Errors (Trans. 55-58), in his appeal to the Supreme Court of Florida, assigned the following:

Assignment of Error IV.

The Chancellor erred in entering the decree of April 27, 1949 because said decree violates and contravenes the Fifth Amendment of the Constitution of the United States, because it deprives the Appellant, Swarz, of his property without due process of law (Trans. 56).

Assignment of Error X.

The Chancellor erred in entering said decree because it deprived and confiscated the property of the defendant-appellant August Swarz, without allowing him his day in court and without due process of law (Trans. 57).

Assignment of Error XIII.

The Chancellor erred in entering a decree without any application or motion, or notice of said motion, to the Defendant, Swarz, by the Plaintiff (Trans. 57).

Assignment of Error XI.

The Chancellor erred in entering the decree and approving the Master's Report because said Master did not qualify himself to act as Master by taking the proper oath, and said Master deprived the Defendant, Swarz, due process of law by denying him the right to continue the hearing so that he might introduce his evidence of title (Trans. 57).

Assignment of Error III.

The decree is erroneous and void because the order entered August 13, 1948 is erroneous because the amended Counter Claim of the Appellant, August Swarz, contains equity and offers to do equity, and sets forth a good cause of action cognizable in a Court of Equity (Trans. 55).

The Florida Supreme Court erred in not finding that the Final Decree entered by the Circuit Court of Florida in and for Broward County, *was entered without due regard for the Constitutional Right to due process of law guaranteed to the Petitioner by the 14th Amendment to the Constitution of the United States.*

The Final Decree entered by the Chancellor of the Circuit Court of Florida in and for Broward County, was entered on the 28th day of April, 1949 at West Palm Beach, Palm Beach County, Florida (Trans. 53-55), *without any copies of Motion of Final Decree or Notice of Final Hearing being served upon the Petitioner, or filed with the Clerk of the Court, and without any opportunity being afforded to the Petitioner to present any argument or testimony in his behalf against the entry of such Order.*

This Court has repeatedly ruled that citizens whose property it is sought to take, must be notified and informed, at a suitable and convenient time beforehand, that at a certain tribunal, at a certain place, and at a certain time, application will be made for the entry of an order, judgment or decree, which will take away or affect substantially, his fundamental rights to life, liberty or property.

This Court has also ruled consistently that due process of law requires that the party against whom such proceedings have been instituted, must, before final judgment is rendered, be given an opportunity to be heard, which in-

cludes the right to prove, if he is able to do, *any and all facts*, which under the established law of the forum, constitutes a defense to his adversary's claim and asserted right, and to prove and establish under the settled rules of procedure, governing the admissibility of evidence, any fact or facts sufficient by the law of the forum, to show that his adversary's claim is untrue, unjust or unfounded.

This Court has never looked with favor upon the practice of any Court in attempting to exercise jurisdiction over real property not located within its own jurisdiction, without the parties in question even being given the opportunity to have their day in Court.

The Chancellor erred in entering said Final Decree because it violates and contravenes Section 4 of the Constitution of the State of Florida, and the Fifth Amendment of the Constitution of the United States, because it deprives and denies this Appellant of an injury done to him without affording him a remedy, *by due course of law.* THE TERM, DUE PROCESS OF LAW, GUARANTEES AND INSURES THAT BEFORE THE CITIZEN CAN BE DEPRIVED OF HIS FUNDAMENTAL RIGHTS TO LIFE, LIBERTY, OR TO HIS PROPERTY THERE MUST BE FIRST A JUDICIAL PROCEEDNG WHERE CERTAIN BASIC AND FUNDAMENTAL RULES ARE OBSERVED.

First: THERE MUST BE NOTICE. The citizens whose life or liberty or property it is sought to take, must be notified and informed, at a suitable and convenient time beforehand, that at a certain tribunal, at a certain place, and at a certain time, application will be made for the entry of an order, judgment or decree, which will take away or affect substantially, his fundamental rights to life, liberty or property.

Second: The party, against whom such proceeding has been instituted, must, before final judgment is rendered, be given an opportunity to be heard, which includes the right to prove, if he is able to do, *any and all facts*, which under the established law of the forum, constitutes a defense to his adversary's claim and asserted right, and to prove and establish under the settled rules of procedure, governing the admissibility of evidence, any fact or facts sufficient by the law of the forum, to show that his adversary's claim is untrue, unjust or unfounded.

12 Corpus Juris Sec. 1009, pages 1234-1236.

Third: THE RIGHT TO DUE PROCESS OF LAW IS A GUARANTEE THAT THERE SHALL ALWAYS BE AFFORDED A REMEDY SUFFICIENT AND ADEQUATE, TO GIVE SUBSTANTIAL REDRESS, AND REASONABLY AND FAIRLY ADAPTED TO THE OCCASION, WHICH, UNDER EXISTING FACTS AND CIRCUMSTANCES WILL METE OUT SUBSTANTIAL JUSTICE TO THE AGGRIEVED PARTY.

Truax v. *Corrigan*, 257 U. S. 312 (329-330).

Cooley's Constitutional Limitations, Vol. II, p. 756.

Cooley's on Constitutional Limitations, 7th Edition, pp. 517, 518, 411.

Marbury v. *Madison*, 1 Cranch (5 U. S.) p. 137.

National City Bk. of N. Y. v. *U. S.*, 275 Fed. 855.

The entry of the Final Decree by the Hon. Jos. S. White in Chambers at West Palm Beach (Trans. 53-55) is a nullity and void because the case was filed and tried in Broward County, the land was situated in Broward County, and the Petitioner Swarz had no notice of the application or motion for the entry of said Final Decree; had no notice of the time and place where said hearing would be conducted. A hearing upon the entry of said decree at the Judge's Chambers at West Palm Beach did not constitute a legalized

court to conduct said hearings and therefore said hearing is null and void, and said Final Decree entered therein is a nullity and void.

The Master in Chancery in denying the Petitioner the right to continue the Master's hearing, to allow the Petitioner to introduce in evidence his deeds showing that he had the record title to the property (Trans. 35-36), deprived the Petitioner of due process of law. The Respondent, by paying the Master for his services as Master in this cause (Trans. 51), "The fees of the Special Master have been paid in full.", without leave of Court, and before the Court had determined the amount that should be paid to the Master, constituted an employment of the Master by the Respondent and destroyed any judicial effect of the Master's hearing, or the Master's conclusions and findings. Masters of Chancery are officers of the Court and cannot be paid by the litigant without the Court's order as to the amount of money that the Master should receive.

The entire proceedings in the trial court were null and void and did not afford the Petitioner his legal right by giving him a legal remedy for the enforcement thereof.

THEREFORE the Courts universally hold that remedies appropriate and substantial remedies are the very life of rights and are equally under the constitutional protection.

WHEREFORE, the Petitioner prays that the Order of the Supreme Court of Florida, filed on the 20th day of December, 1949, affirming the Final Decree of the Trial Court, filed April 28th, 1949, be reversed and that the Writ of Certiorari be allowed.

Respectfully submitted,

August Swarz, *pro se*
Petitioner
511 N.E. 38th St.,
Miami, Fla.

In the

Supreme Court of the United States

October Term, 1962

No. [redacted]

AUGUST SWARZ,

Petitioner,

vs.

S. W. GOOLSBY,

Respondent.

PETITION FOR RE-HEARING

AUGUST SWARZ,
Petitioner (pro-se),
511 N. E. 56th Street,
Miami, Florida.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 826

AUGUST SWARZ,

Petitioner,

vs.

S. W. GOOLSBY,

Respondent.

PETITION FOR RE-HEARING

TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Now Comes the Petitioner, August Swarz, pro-se, and in support of said Petition for Re-hearing presents the following suggestions:

SUGGESTION I.

This Honorable Court prematurely decided this case for Application for Petition for Writ of Certiorari before

your Petitioner was allowed "Oral Argument" as requested. *Rule 28, Oral Argument* Provides Oral Argument on consideration for application of petition for Writ of Certiorari.

The right to file and docket this case, and the right to be heard on oral argument, are inseparable, and this Honorable Court does not have any right, power or jurisdiction to adjudicate this case before your Petitioner had been afforded the right to appear in open court and be heard on oral argument as requested by him, upon consideration of application of petition for Writ of Certiorari.

SUGGESTION II.

IT IS THE DUTY OF THIS HONORABLE COURT TO ALLOW ORAL ARGUMENT ON THE CONSIDERATION OF PETITIONS FOR CERTIORARI.

THERE ARE NO RULES IN THE SUPREME COURT OF THE UNITED STATES WHICH DO NOT ALLOW ORAL ARGUMENT. RULE 28 PROVIDES FOR AND ALLOWS ORAL ARGUMENT.

Your Petitioner has requested oral argument in the above entitled cause, and said request is printed on the cover on the Petition for Certiorari as follows: "ORAL ARGUMENT REQUESTED".

It is both the duty and mandatory upon this Honorable Court to hear the Petition on Oral Argument on consideration of Petitions for Certiorari. The right of litigants to file and docket a case, and the right to be heard on Oral Arguments are inseparable.

SUGGESTION III.

IT IS THE SOLEMN DUTY OF ALL THE JUSTICES OF THIS HONORABLE COURT TO ALLOW THE PETITIONER TO APPEAR IN OPEN COURT AND BE HEARD UPON ORAL ARGUMENT UPON THE CONSIDERATION OF CERTIORARI. THIS HONORABLE COURT HAS NO DISCRETION IN THIS MATTER.

The Honorable Charles Cropley, as Clerk of this Honorable Court, has no discretion in presenting the Request for Oral Argument before this Honorable Court for Oral Argument by your petitioner. It is his duty to do so.

Rule 28 of this Honorable Court make provision for Oral Argument on Petition for Certiorari. It is the duty of the Honorable Charles Cropley, as Clerk of the Court, to follow the application of the rules, and present the "Request for Oral Argument" to be set down for Oral Argument upon the consideration of the application for Writ of Certiorari before this Honorable Court.

SUGGESTION IV.

ORAL ARGUMENT IS ALLOWED ON APPEALS AND PETITION FOR WRIT OF CERTIORARI.

There are no provisions in the rules which says that Oral Argument is allowed on appeals and not allowed on Consideration of Petition on Certiorari. The rules, *Rule 28, for Oral Argument* are applicable and make provision for both to appeals and Writ of Certiorari.

THE REFUSAL OF THIS HONORABLE COURT TO ALLOW YOUR PETITIONER ORAL ARGUMENT UPON THE APPLICATION OF CERTIORARI, IS TO TAKE AWAY OR AFFECT SUBSTANTIALLY HIS FUNDAMENTAL RIGHTS OF LIFE, LIBERTY AND PROPERTY AND DENIES YOUR PETITIONER *DUE PROCESS OF LAW.*

The constitutional right of Due Process of Law and the right to appear and be heard in open court, makes it mandatory upon this Honorable Court to follow the rules which will permit your petitioner oral argument as requested by him on consideration of Petition for Writ of Certiorari.

Your Petitioner reserves the right to file another Petition for a re-hearing upon the merits of the case, if necessary.

WHEREFORE, this Petitioner prays:

1. That Petition for re-hearing be allowed.

2. That the Order of Oct. 9, 1950 denying the Petition of Writ of Certiorari be vacated and declared null and void.

3. That the request of your Petitioner for oral argument as requested at the filing of Petition of Writ of Certiorari be allowed.

Respectfully submitted,

AUGUST SWARZ
August Swarz, pro-se Petitioner

CERTIFICATE OF PETITIONER,

AUGUST SWARZ, Petitioner, Pro Se

I, August Swarz, Petitioner, pro se, being first duly sworn, deposes and says that the foregoing Petition for Rehearing of this cause is presented in good faith and not for delay.

AUGUST SWARZ
August Swarz, Pro Se Petitioner
511 N. E. 38th Street,
Miami, Fla.

(SEAL)
Subscribed and sworn to this
20th day of October, 1950.

ADELE SUTTON, Notary Public